

DALE L. ALLEN, JR., # 145279
JOSHUA M. BRYAN, # 225230
LOW, BALL & LYNCH
505 Montgomery Street, 7th Floor
San Francisco, California 94111-2584
Telephone (415) 981-6630
Facsimile (415) 982-1634

Attorneys for Defendant
BAY AREA RAPID TRANSIT DISTRICT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JEROME L. GRIMES,

Plaintiff,

v.

(BART) BAY AREA RAPID TRANSIT,
(Transportation) (Non-Police Agency); VIVENCIO
GONZAGA (AKA: Vincent Flores) (BART Janitor
07/09/03 Civilian Employee); KEN “KENNETH”
DAM (Community Service Assistant, for, BART)
(07/09/03 Civilian Employee); BRUCE TURNER
(BART RUN # 225, 07/09/03, 1819 hrs. (1806 hrs.)),
(07/09/03 Civilian Employee) (Terrorist Benjamin
Arnold Turner’s Foster Relative/Co-Conspirator
07/12/86 Co-Child Abduction,

Defendants.

Case No. C 07 80138-MISC. CW

[PROPOSED] ORDER RE:
MOTION TO DISMISS ACTION
BASED ON FAILURE TO STATE
A CLAIM UNDER FRCP RULE
12(b)(6); OR IN THE
ALTERNATIVE FOR ORDER
REQUIRING PLAINTIFF TO
PROVIDE A MORE DEFINITE
STATEMENT (FRCP RULE 12(e);
AND TO STRIKE PUNITIVE
DAMAGES UNDER FRCP RULE
12(f))

Date: August 2, 2007
Time: 2:00 p.m.
CtRm 2, 4th Floor

The motion of defendant Bay Area Rapid Transit District (“BARTD”) to dismiss action based on failure to state a claim under FRCP Rule 12(b)(6); or in the alternative for an order requiring plaintiff to provide a more definite statement (FRCP Rule 12(e); and to strike punitive damages came on for hearing on August 2, 2007, at 2:00 p.m., Court Room 2, 4th Floor of the above entitled court before the Honorable Claudia Wilken.

///

///

1 The Court, having considered the papers and arguments submitted in support of and in opposition to
2 the motion, if any, finds that the plaintiff's complaint filed on or about May 30, 2007 fails to state any cause of
3 action for which relief can be granted as to BARTD.

4 IT IS THEREFORE ORDERED that this matter is hereby dismissed as to BARTD with prejudice in its
5 entirety.

6
7 Dated: _____
8

9
10 THE HONORABLE CLAUDIA WILKEN
11 UNITED STATES DISTRICT JUDGE
12 NORTHERN DISTRICT OF CALIFORNIA
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28